

## **REMARKS**

Claim 10 stands rejected under 35 U.S.C. § 112 as being indefinite.

Claims 1-12 stand rejection under 35 U.S.C. § 112 for lack of enablement.

Claims 1-8 and 10 have been cancelled.

Claims 9, 11, and 12 have been amended. No new matter was added by the amendment.

Claims 1-12 stand provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-23 of copending Application No. US 2007/0042996 (US 10/558,116) in view of US 2006/0217346.

### **Rejections under 35 U.S.C. § 112 ¶ 2**

Claim 10 was rejected under 35 U.S.C. § 112 as being indefinite. Claim 10 has been cancelled. Applicant submit the rejection is rendered moot.

### **Rejections under 35 U.S.C. § 112 ¶ 1**

Claims 1-8 and 10 have been cancelled. Claims 9, 11, and 12 have been amended.

Applicant respectfully traverse the rejection.

Applicants note that the definitions recited in claim 9, with respect to X, Y, R1, R2, R3, and R4, correspond to the gaps which the Examiner has presented on pages 3, 6 and 8 of the Office Action. Thus, Applicants understand that enablement with respect to X, Y, R1, R2, R3, and R4 according to claim 9 is acknowledged by the Examiner.

With respect to R5, the Examiner acknowledges enablement when R5=alkyl unsubstituted and substituted with hydroxyl or alkoxy. Applicants respectfully draw the attention of the Examiner to the description and diagrams of schemes 2 and 3 on pages 14-16 of specification, which Applicants respectfully assert enables one of ordinary skill in the art to practice the currently claimed invention.

### **Non-Statutory Obvious-type Double Patenting**

OVER CLAIMS 1-23 OF U.S. APPL. PUB. NO. 2007/0042996 IN VIEW OF U.S. APPL. PUB. NO. 2006/0217346.

Applicants respectfully submit that the claims of the instant application are in condition for allowance. The only rejections that remain are Provisional Rejections over later filed co-pending applications. Applicants note MPEP § 804(I)(B)(1) below, and respectfully request the Examiner to withdraw the remaining provisional rejections.

### **MPEP § 804(I)(B)(1), Paragraph 1:**

If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of

the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.

For the reasons set forth above, Applicants respectfully submit that the present response overcomes all outstanding rejections, and Applicants respectfully request reconsideration and allowance of all claims.

Respectfully submitted,

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